

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM**

**June 14, 2002
9:00 AM**

Present: Appointed Members: Caleb Faux, Jacquelyn McCray, Don Mooney, Pete Witte; Administration: City Manager's Delegate David Rager; Council Representative: Jim Tarbell; City Planning Staff: Director Liz Blume, Steven Kurtz, Administrator, Land Use Management, and Land Use Division staff Steve Briggs, Julia Carney, David Efland, Lorraine Jordan, Rodney Ringer; Zoning Consultant Edward Mangold; Technical Review Committee: Lois Broerman, Delores Brown, Steven Dana, Jon Doucleff, Michael Mauch, Mark Minges.

Chairman Donald Mooney called the City Planning Commission (CPC) meeting to order.

Following distribution of the draft Zoning Code for public review and comment, staff of the City Planning Department (CPD) conducted a series of community-wide informational sessions to review the draft, respond to questions and accept comments and suggestions. Staff has also met with a number of special interest groups and other stakeholders.

Most comments have been positive in nature, and a number of good suggestions were provided to improve clarity of certain regulations. It appears that most people find the new Code to be a significant improvement over the existing Code due to its performance-based approach, ease of use and streamlined administrative procedures.

Mr. Mooney indicated that each policy issue and suggested revision outlined in the staff report will be discussed individually and direction will be arrived at through CPC/TRC consensus.

Transit Oriented Development

Comments were received promoting the creation of a Transit Oriented Development district, and for the reduction of parking requirements within the TOD district.

Staff Response: In light of the greater mix of uses in the base districts, the proposed Planned Development district in the new code, and a present lack of transit development, a TOD district is not necessary. If Transit Oriented Development should occur in the future a text amendment may be necessary at a later date. Additionally, the majority of existing transit infrastructure is located in the right-of-way and is subject to the revocable street privilege process.

CPC/TRC: Add Transit Oriented Development (TOD) purpose statement to chapters where appropriate.

Community Input (EQ-Hearings)

A few individuals have expressed concern that the new code will result in a reduction in the number of discretionary decision-making hearings. Neighborhoods view these hearings as an opportunity to control development in their community.

Staff Response: The performance-based approach of the new code will address this concern. The inclusion of performance standards adds a level of certainty that does not exist today. Neighborhoods should be assured that permits would not be issued unless performance standards are met, thereby obviating the need for a hearing. If the performance standards are not adequate, the opportunity presently exists to recommend changes.

CPC/TRC: Agree with staff position.

Intense Industrial Uses

Several remarks were received concerning the issue of intense industrial uses related to air quality and safe control of toxic chemicals. The main concern was to reduce the concentration of industry in a particular location.

Staff Response: Intensive High Impact Industrial Uses are already conditional uses in the MG (Manufacturing General) and ME (Manufacturing Exclusive) districts. The only other use category affected by intense industrial uses is General Production Industry, currently permitted in the MG and ME districts. However, no change to the ME district is recommended, because the intent of this district is to promote an exclusive manufacturing zone. Staff also recommends no change to the MG district due to the already limited supply of land zoned for MG development in Cincinnati. Moreover, the draft code includes a chapter on Landscaping and Bufferyards. A major purpose of this chapter is to eliminate or minimize conflicts between potentially incompatible uses on adjoining lots through buffering, which may include a combination of setbacks and visual buffers or barriers. These regulations will help insure that more restrictive districts surrounding manufacturing districts will be adequately screened and buffered. In addition, there are various state and federal agencies that regulate particular aspects of industrial production (e.g., Ohio Environmental Protection Agency, (OEPA) and the Hamilton County Department of Environmental Services), whereas the City is not equipped to regulate or enforce these matters.

CPC/TRC: Require those uses that need EPA permits to obtain them prior to zoning approval.

Manufacturing Exclusive District

Staff has heard some comments from owners of land currently zoned manufacturing. They are concerned about potential loss of value if their land

becomes zoned Manufacturing Exclusive (ME), as that zoning district does not allow retail uses.

Staff Response: Currently, the draft code allows retail uses in the Manufacturing Limited (ML) and the Manufacturing General (MG), with the limitation that retail uses occupy less than 5,000 square feet in the ML and 10,000 square feet in the MG. Staff recommends no change in the M Districts. Manufacturing zoned and used land is scarce in the City, and any change that would allow the potential intrusion of retail uses in these areas potentially decreases the amount of usable land for higher tax-bearing manufacturing uses. Additionally, the application of the ME district through the mapping component of the zoning code re-write is critical. Staff anticipates that there will not be many ME districts and the ME will probably be applied to existing land used for heavy industry, as the ME district is reserved for the heaviest and most intrusive of industrial uses. If the ME district is eliminated, a potential conflict between lighter industrial, commercial, and residential uses and heavy industrial uses is more likely. In fact, it is equally likely that a heavy industrial user would desire an ME designation to help minimize any potential conflict with surrounding land uses, while ensuring that their use can continue unfettered. Finally, as with any property owner, the owner of ME zoned land could petition for a zone change to any other zoning category.

CPC/TRC: Agree with staff position.

Enforcement

From the beginning of the zoning code update process, enforcement of the code has been a key issue. Many of the comments received during this phase of public comment again focused on the importance of enforcement. Specific comments indicated that zoning enforcement is not a high priority within the Department of Buildings and Inspections, due to the higher priority placed upon public safety issues of the building code. Concerns were also raised about the enforcement of the Zoning Hearing Examiner's conditions of approval.

Staff Response: Staff concurs with the many public comments stressing that the key element fostering productivity and functionality of this code is enforcement. While the simplification of the code and clarity of new regulations will contribute to improved enforcement, the use of dedicated zoning inspectors is essential. Therefore, staff recommends that the City have at least one full-time, dedicated Zoning Inspector, and also that the Zoning Plan Examiners work through the City Planning Department.

CPC/TRC: There was a great deal of discussion and support among CPC and TRC members for the idea of having a full-time Zoning Inspector, and also for having the Plan Examiner report to CPD administration. CPC supports a zoning permit issued by CPD with appropriate enforcement. Further, the CPC suggested that the Administration determine the best way to accomplish this and, accordingly, make a recommendation to the CPC.

Churches

The majority of comments addressed ever-increasing church sizes, which are out of character with existing single-family residential districts. Churches today are larger and have many accessory uses that may negatively affect single-family residential areas.

Staff Response: Staff recommends that if the principal assembly area is greater than 2000 square feet within single-family districts, then conditional use approval is required. This will allow the Zoning Hearing Examiner to review the project's affect on the neighborhood and allow additional input by adjacent property owners, on a case-by-case basis.

CPC/TRC: Change measurement criteria to '5000 total square feet' instead of '2000 square feet of assembly area' only.

Interim Development Control District

Questions arose concerning the validity of IDC's in Cincinnati. It was suggested we eliminate IDC's because they were continually requested (very often inappropriately) to prevent undesirable development, regardless of whether the appropriate requirements have been met.

Staff Response: Staff proposes the elimination of IDC overlays and recommends that development control should be administered through individual moratoriums by City Council, as necessary. In the Tahoe decision, the U.S. Supreme Court has recently upheld moratoriums as a valid means of development control.

CPC/TRC: Keep the IDC, but re-work the criteria for establishing a district.

Variances and Special Exceptions

Feedback was received regarding the liberal nature of standards for variances in the proposed zoning code language. Public comment indicated that "The standard for getting a variance should be much more difficult than merely a claim of "hardship". The standard should be that there is a physical problem with the lot that is absolutely not caused by the owner".

Staff Response: Variances provide a means of relief from the dimensional standards of the code, such as setbacks and height. Special Exceptions relate to the performance standards of the code, and may be granted only after careful review of such factors as location, design, configuration, and relation to adjacent uses. Staff recommends that the language of the existing code regarding standards for variances should be retained and interpreted in the strictest sense. The standards for the granting of a special exception should be based on the "hardship" standard presently enumerated in the draft code for variances. Staff believes that a variance should be very difficult to obtain, while a special exception may be granted, after careful review and consideration of the impacts on adjacent properties.

CPC/TRC: Leave the variance chapter as shown in the draft.

Community Council Standing

Staff has received conflicting comments with respect to Community Council standing, input and notification. Comments from the development community wanting to know when a decision is final and comments from community groups wanting to participate and review all aspects of development. While City Council recognizes Community Councils, their official action is not required in any zoning process.

Staff Response: Standing should be determined and interpreted according to the proposed code. The new code has an expanded definition of standing (see Chapter 1449-03) which staff believes adequately reflects the balance between community rights and property owner rights.

CPC/TRC: Agree with staff position.

Transition District (T) Zone

An inquiry was made relative to the elimination of T Zones.

Staff Response: The T zone acts to buffer potentially incompatible uses that may exist when a more restrictive district is adjacent to a less restrictive district. All the regulations of the underlying Residential District are applicable and may be modified by the Director of Buildings and Inspections (B&I) who may allow uses as permitted in the least restrictive abutting district after holding a public hearing.

A majority of the established T zones allow for some level of business activity in the residentially designated parcel. T zones have been preferred over straight business zoning because the majority of approved guidelines require screening of the uses in the T District from adjacent properties in the Residential District by buffer yards and/or landscaping. There is no such requirement found in the business zones of the current code.

The new Zoning Code is based on a performance-oriented approach. By codifying certain existing guidelines, the draft code ensures that new development "performs" as it should, streamlines approvals by reducing discretionary reviews and provides certainty for both the applicant and neighbors as to what is expected. This approach obviates the need for T zones.

CPC/TRC: Agree with staff position

Environmental Quality – Urban Design (EQ-UD) Districts

Some neighborhoods were concerned with how the existing EQ-UD guidelines would be addressed in the new code.

Staff Response: The new code is based on a performance-oriented approach; many of the guidelines in the existing EQ-UD's are now codified as performance standards in the base districts in the new code. The community character designators (i.e., pedestrian oriented, mixed use, auto oriented) have been established to tailor commercial development to the character of the surrounding neighborhood business district, which was the major purpose of the EQ guidelines. The new code does contain an overlay district for EQ-UD, which will include approximately 10-15 supplemental guidelines, that EQ-UD neighborhoods believe are critical to the success of their business districts.

CPC/TRC: Agree with staff position.

Due to the time, Mr. Mooney suggested that everyone study the staff report carefully, and if there are further comments or questions to contact Mr. Kurtz.

Mr. Kurtz sought direction regarding mapping, explaining the difficulty of channeling resources to accomplish the mapping task while staff has to continue to deal with zone changes. He suggested that the Commission declare a moratorium on accepting zone change applications until after the mapping component is complete. Through discussion, the decision was reached that staff should submit zone change application information to the CPC and let them decide on a case-by-case basis the urgency of dealing with the request.

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

Elizabeth A. Blume, Director
City Planning Department

Donald J. Mooney, Chairman
City Planning Commission

Date: _____

Date: _____